

PHARMACY PRACTICE ACT

Part 1 - General Provisions

58-17a-101. Title.

This chapter is known as the "Pharmacy Practice Act."

58-17a-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

- (1) "Administering" means:
 - (a) the direct application of a prescription drug or device, whether by injection, inhalation, ingestion, or by any other means, to the body of a human patient or research subject to by another person; or
 - (b) the placement by a veterinarian with the owner or caretaker of an animal or group of animals of a prescription drug for the purpose of injection, inhalation, ingestion, or any other means directed to the body of the animal by the owner or caretaker in accordance with written directions of the veterinarian.
- (2) "Analytical laboratory"
 - (a) means a facility in possession of prescription drugs for the purpose of analysis; and
 - (b) does not include a laboratory possessing prescription drugs used as standards and controls in performing drug monitoring or drug screening analysis if the prescription drugs are prediluted in a human or animal body fluid, human or animal body fluid components, organic solvents, or inorganic buffers at a concentration not exceeding one milligram per milliliter when labeled or otherwise designated as being for in-vitro diagnostic use.
- (3) "Animal euthanasia agency" means an agency performing euthanasia on animals by the use of prescription drugs.
- (4) "Board" means the State Board of Pharmacy created in Section 58-17a-201.
- (5) "Branch pharmacy" means a drug outlet or other facility in a rural or medically underserved area, used for the storage and dispensing of prescription drugs, which is dependent upon, stocked by, and supervised by a pharmacist in another licensed pharmacy designated and approved by the division as the parent pharmacy.
- (6) "Compounding":
 - (a) means the preparation, mixing, assembling, packaging, or labeling of reasonable quantities of a prescription drug or device by a licensed pharmacist or pharmacy intern upon receipt of a valid prescription or medication order from a practitioner for an individually identified patient;
 - (b) includes preparation, mixing, assembling, packaging, or labeling of reasonable quantities of a prescription drug for the purpose of, or incidental to research, teaching, or chemical analysis on the condition the prescription drug is not offered for sale or dispensing;
 - (c) includes the preparation of a reasonable quantity of a prescription drug by a licensed pharmacist or pharmacy intern in anticipation of a valid prescription or medication order to be dispensed or administered to a patient based on routine, regularly observed prescribing patterns of a practitioner; and
 - (d) does not include the preparation of prescription drugs by a pharmacist or pharmacy intern for sale to another pharmacist, drug outlet, or the preparation by a pharmacist or pharmacy intern of any prescription drug in a dosage form which is regularly and commonly available from a

- manufacturer in quantities and strengths prescribed by a practitioner.
- (7) "Controlled substance" has the same definition as in Section 58-37-2.
 - (8) "Device" means an instrument, apparatus, implement, machine, contrivance, implant, in-vitro reagent, or other similar or related article, including any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by a pharmacist or pharmacy intern.
 - (9) "Dispense" means to prepare and deliver a prescription drug or device or nonprescription drug or device under a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient, research subject, an animal, or other individual entitled to receive the prescription drug or device.
 - (10) "Distribute" means to deliver a drug or device other than by administering or dispensing.
 - (11) "Drug" or "drugs" means a prescription drug as defined in this chapter.
 - (12) "Drug outlet" means any person, other than an individual licensed as a pharmacist, pharmacy technician, or pharmacy intern, who engages in dispensing, delivering, distributing, manufacturing, or wholesaling prescription drugs or devices within or into this state.
 - (13) "Drug product equivalent" means a drug product that is designated the therapeutic equivalent of another drug product in the Approved Drug Products with Therapeutic Equivalence Evaluations prepared by the Center for Drug Evaluation and Research of the Federal Food and Drug Administration.
 - (14) "Drug sample" means a prescription drug packaged in small quantities consistent with limited dosage therapy of the particular drug, which is marked "sample", is not intended to be sold, and is intended to be provided to practitioners for the immediate needs of patients for trial purposes or to provide the drug to the patient until a prescription can be filled by the patient.
 - (15) "Extern" means a college of pharmacy student enrolled in a college coordinated practical experience program in a licensed pharmacy under the supervision of a preceptor, as defined in Subsection (45), and approved by the college of pharmacy.
 - (16) "Filling" or "refilling" have same meaning as dispense.
 - (17) "General supervision" means the supervising pharmacist is in the pharmacy or the facility in which the pharmacy is located and is available for immediate oral contact with the supervised pharmacy technician or pharmacy intern.
 - (18) "Hospital pharmacy" means a drug outlet providing pharmaceutical service to inpatients of a general acute hospital or specialty hospital licensed by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.
 - (19) "Institutional pharmacy":
 - (a) means a drug outlet providing pharmaceutical service to a defined and exclusive group of patients who have access to the services of the pharmacy because they are treated by or have an affiliation with a specific entity including health maintenance organizations and infusion companies; and
 - (b) does not include hospital pharmacies, drug outlets engaged in retail sales of prescription drugs and devices to the general public, or the offices of practitioners.
 - (20) "Labeling" means the process of preparing and affixing a label to the container of any drug or device, exclusive of the labeling by a manufacturer, packer, or distributor of a nonprescription drug or commercially packaged legend drug or device. Any label shall include all information required by federal and state law or rule.
 - (21) "Licensee" means any person to whom a license has been granted under this chapter.

- (22) "Manufacture":
- (a) means the production, preparation, propagation, compounding, conversion, of processing of a prescription drug or a device, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of a substance or labeling or relabeling of its container; and
 - (b) does not include the preparation or compounding of a noncontrolled substance drug by an individual for that individual's own use or the preparation, compounding, packaging, or labeling of a drug:
 - (i) by a pharmacist, pharmacy intern, or practitioner incident to administering or dispensing of a drug in the course of professional practice; or
 - (ii) by a practitioner or by that practitioner's authorization under supervision for the purpose of or incident to research, teaching, or chemical analysis and not for sale.
- (23) "Medication profile" or "profile" means a record system maintained as to drugs or devices prescribed for a pharmacy patient to enable a pharmacy, or pharmacy intern to analyze for potential harmful or dangerous interactions, or other factors, or other drugs or devices prescribed for the patient.
- (24) "Nonprescription drugs" means medicines or drugs which may be sold without a prescription and which are prepackaged for use by the consumer and labeled in accordance with the requirements of the statutes and rules of this state and of the federal government.
- (25) "Nuclear pharmacy" means a drug outlet providing radiopharmaceutical service.
- (26) "Out-of-state mail service pharmacy" means a drug outlet located outside the state that:
- (a) ships, mails, or delivers by any lawful means a dispensed legend drug to a resident in this state pursuant to a legally issued prescription;
 - (b) provides information to a resident of this state on drugs or devices which may include, but is not limited to, advice relating to therapeutic values, potential hazards, and uses; or
 - (c) counsels pharmacy patients residing in this state concerning adverse and therapeutic effects of drugs.
- (27) "Person" means an individual, corporation, partnership, association, or any other legal entity.
- (28) "Pharmaceutical administration facility" means a health care facility or agency, including birthing centers, ambulatory surgical facilities, abortion clinics, home health agencies, hospices, nursing care facilities, end stage renal disease facilities, and penal institutions in which:
- (a) a licensed drug outlet is not located;
 - (b) prescription drugs are held, stored, or are otherwise under the control of the facility or agency for administration to patients of that facility or agency;
 - (c) prescription drugs are dispensed to the facility or agency by a licensed pharmacist or pharmacy intern with whom the facility has established a prescription drug supervising relationship under which the pharmacist or pharmacy intern provides counseling to the facility or agency staff as required, and oversees drug control, accounting, and destruction; and
 - (d) prescription drugs are professionally administered in accordance with the order of a practitioner by an employee or agent of the facility or agency.
- (29) (a) "Pharmaceutical care" means carrying out the following in collaboration with a prescribing practitioner, and in accordance with division rule:
- (i) designing, implementing, and monitoring a therapeutic drug plan intended to achieve favorable outcomes related to a specific

- patient for the purpose of curing or preventing the patient's disease;
 - (ii) eliminating or reducing a patient's symptoms; or
 - (iii) arresting or slowing a disease process.
 - (b) "Pharmaceutical care" does not include prescribing of drugs without consent of a prescribing practitioner.
- (30) "Pharmaceutical dog trainer" means a person who is employed by or under contract to a law enforcement agency who uses prescription drugs for the purpose of training dogs in the detection of prescription drugs.
- (31) "Pharmaceutical manufacturer" means a person engaged in the manufacture of prescription drugs or devices.
- (32) "Pharmaceutical researcher" means a person who is engaged in conducting scientific research regarding drugs and their use in accordance with standard research protocols and techniques, who maintains competent documentation with respect to the research, and who uses prescription drugs in the conduct of the research.
- (33) "Pharmaceutical teaching organization" means an accredited school of pharmacy within the state, or a school or program meeting the requirements established in accordance with Subsection 58-17a-302(4) providing education for pharmacy technicians within the state.
- (34) "Pharmaceutical wholesaler/distributor":
 - (a) means a drug outlet engaged in the business of wholesale vending or selling of any prescription drug or device to other than the consumer or user of the prescription drug or device, which the drug outlet has not produced, manufactured, compounded, or dispensed; and
 - (b) does not including a drug outlet carrying out the following business activities:
 - (i) intracompany sales;
 - (ii) the sale, purchase, or trade of a prescription drug or device, or offer to sell, purchase or trade a prescription drug or device between hospitals or other health care facilities that are under common ownership or control of the management and operation of the facilities.
 - (iii) the sale, purchase or trade of a prescription drug or device, or offer to sell, purchase, or trade a prescription drug or device for emergency medical reasons, or to supply another drug outlet to alleviate a temporary shortage; or
 - (iv) the distribution of a prescription drug or device as a sample by representatives of a manufacturer.
- (35) "Pharmacist" means an individual licensed by this state to engage in the practice of pharmacy.
- (36) "Pharmacy" means a facility or location where the practice of pharmacy is carried out.
- (37) "Pharmacy intern" means an individual licensed by this state to engage in practice as a pharmacy intern.
- (38) "Pharmacy patient" or "patient" means an individual for whom a practitioner has prescribed a drug or device which is to be administered to or taken or used by that individual or an animal.
- (39) "Pharmacy technician" means an individual licensed by this state to engage in practice as a pharmacy technician.
- (40) "Physician" means an individual licensed by this state to engage in the practice of medicine.
- (41) "Practice as a pharmacy intern" means engaging in the practice of pharmacy under the general supervision of a licensed pharmacist approved by the division in collaboration with the board and in accordance with a scope of practice as defined by division rule made in collaboration with the board.
- (42) "Practice as a pharmacy technician":

- (a) means engaging in practice as a pharmacy technician under the general supervision of a licensed pharmacist and in accordance with a scope of practice as defined by division rule made in collaboration with the board; and
 - (b) does not include performing a final review of the prescription and prescribe drug prepared for dispensing, dispensing of the drug, or counseling a patient with respect to a prescription drug or nonprescription drug.
- (43) "Practice of pharmacy" includes any of the following:
- (a) interpreting prescription orders;
 - (b) compounding, packaging, labeling, dispensing, administering, and the coincident distribution of prescription drugs or devices, provided that the administration of a prescription drug or device is:
 - (i) pursuant to a lawful order of a practitioner when one is required by law; and
 - (ii) in accordance with written guidelines or protocols:
 - (A) established by the licensed facility in which the prescription drug or device is to be administered on an inpatient basis; or
 - (B) approved by the division, in collaboration with the board and the Physician's Licensing Board, created in Section 58-67-201, if the prescription drug or device is to be administered on an outpatient basis solely by a licensed pharmacist;
 - (c) participating in drug utilization review;
 - (d) ensuring proper and safe storage of drugs and devices;
 - (e) maintaining records of drugs and devices in accordance with state and federal law and the standards and ethics of the profession;
 - (f) providing information on drugs or devices, which may including advice relating to therapeutic values, potential hazards, and uses;
 - (g) providing drug product equivalents;
 - (h) supervising pharmacist's supportive personnel, pharmacy interns, and pharmacy technicians;
 - (i) providing patient counseling, including adverse and therapeutic effects of drugs; and
 - (j) providing pharmaceutical care.
- (44) "Practitioner" means any person licensed by the state to prescribe drugs, medications, or devices dispensed by prescription only.
- (45) "Preceptor" means a licensed pharmacist approved by the division in collaboration with the board to serve as a teacher, example of professional conduct, and supervisor of interns and externs in the professional practice of pharmacy.
- (46) "Prescription" means an order issued by a licensed practitioner, in the course of that practitioner's professional practice for a controlled substance, other prescription drug or device with the intent the prescription drug or device will be used by a patient or an animal. The order may be issued by word of mouth, written document, telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.
- (47) "Prescription drug or device" or "legend drug or device" means:
- (a) a drug or device which, under federal law, is required to be labeled with either of the following statements or their equivalent:
 - (i) "CAUTION: Federal law prohibits dispensing without prescription"; or
 - (ii) "CAUTION: Federal law restricts this drug to use by or on the order of a licensed veterinarian"; or
 - (b) a drug or device that is required by any applicable federal or state law or rule to be dispensed on prescription only or is restricted to use by

practitioners only.

- (48) "Prescription drug or device order" means a lawful written or oral order of a practitioner for a prescription drug or device for use in humans or animals.
- (49) "Retail pharmacy" means a drug outlet dispensing prescription drugs and devices to the general public.
- (50) "Supportive personnel" means unlicensed individuals who:
 - (a) may assist a pharmacist, pharmacy intern, or pharmacy technician in nonjudgmental duties not included in the definition of the practice of pharmacy, and as those duties may be further defined by division rule made in collaboration with the board; and
 - (b) are supervised by a pharmacist in accordance with rules made by the division in collaboration with the board.
- (51) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-17a-501.
- (52) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-17a-502, and as may be further defined by rule.
- (53) "Veterinary pharmaceutical outlet" means a drug outlet dispensing veterinary prescription drugs.

58-17a-103. Administrative inspections.

- (1) The division may, for the purpose of ascertaining compliance with the provisions of this chapter, enter and inspect on a routine basis the business premises of a person:
 - (a) licensed under Section 58-17a-303; or
 - (b) who holds himself out to the general public as providing a good or service for which a license is required under Section 58-17a-303.
- (2) Before conducting an inspection under Subsection (1), the division shall, after identifying the person in charge:
 - (a) give proper identification;
 - (b) request to see the applicable license;
 - (c) describe the nature and purpose of the inspection; and
 - (d) if necessary, explain the authority of the division to conduct the inspection and the penalty for refusing to permit the inspection as provided in Section 58-17a-501.
- (3) In conducting an inspection under Subsection (1), the division may, after meeting the requirements of Subsection (2):
 - (a) examine any record, prescription, order, drug, device, equipment, machine, or area related to a good or service for which a license has been issued under or is required by Section 58-17a-303 for the purpose of ascertaining compliance with the applicable provisions of this chapter;
 - (b) take a drug or device for further analysis if considered necessary; and
 - (c) temporarily seize a drug or device which is found to be adulterated, misbranded, or otherwise in violation of this chapter, pending an adjudicative proceeding on the matter.
- (4) An inspection conducted under Subsection (1) shall be during regular business hours.
- (5) The division's authority to conduct an inspection is not affected by a person's failure to:
 - (a) acknowledge the division's authority as is required by Section 58-17a-303; or
 - (b) receive notice under Subsection (6).
- (6) Before July 1, 1998, the division shall mail a notice to the last-known address of each person licensed under Section 58-17a-303, explaining the division's authority to conduct inspections.

Part 2 - Board

58-17a-201. Board - Membership - Qualifications - Terms.

- (1) There is created the State Board of Pharmacy consisting of five pharmacists, one pharmacy technician, a member of the general public.
 - (a) The public members of the board shall be a Utah resident who:
 - (i) is 21 years of age or older;
 - (ii) is not, and has not ever been, a member of the profession of pharmacy, the spouse of a member of the profession of pharmacy, or a person who has ever had any material financial interest in providing pharmacy service; and
 - (iii) has never engaged in any activity directly related to the practice of pharmacy.
 - (b) The licensed pharmacist and pharmacy technician members of the board shall:
 - (i) be licensed under this chapter at the time of their appointment;
 - (ii) have been Utah residents continuously for at least three years;
 - (iii) be licensed and in good standing to engage in the practice of pharmacy of practice as a pharmacy technician in Utah; and
 - (iv) have at least five years experience in the practice of pharmacy in Utah after licensure if sitting as a pharmacist member of the board.
- (2) The board shall be appointed and serve in accordance with Section 58-1-201.
- (3) The duties and responsibilities of the board are in accordance with Sections 58-1-202 and 58-1-203. In addition, the board shall designate an appropriate member on a permanent or rotating basis to:
 - (a) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and
 - (b) advise the division in its investigation of these complaints.
- (4) A board member who has, under Subsection (3), reviewed a complaint or advised in its investigation may be disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

Part 3 - Licensing

58-17a-301. License required - Licensure classifications for individuals.

- (1) A license is required to engage in the practice of pharmacy, or to engage in practice as a pharmacy intern or pharmacy technician, except as specifically provided in Section 58-1-307 or 58-17a-305.
- (2) The division shall issue to an individual who qualifies under this chapter a license in the classification of:
 - (a) pharmacist;
 - (b) pharmacy intern; or
 - (c) pharmacy technician.

58-17a-302. Qualifications for licensure of pharmacist, pharmacy technician, and pharmacy intern.

- (1) Each applicant for licensure as a pharmacist and to practice pharmacy shall:
 - (a) submit an application in a form prescribed by the division;
 - (b) pay a fee as determined by the department under Section 63-38-3.2;
 - (c) have graduated and received a professional entry degree from a school or college of pharmacy which is accredited by the American Council on Pharmaceutical Education;
 - (d) have completed an internship meeting standards established by division

- rule made in collaboration with the board;
 - (e) have successfully passed examinations required by division rule made in collaboration with the board
 - (f) produce satisfactory evidence of good moral character as it relates to the applicant's ability to practice pharmacy; and
 - (g) have no physical or mental condition of a nature which prevents the applicant from engaging in the practice of pharmacy with reasonable skill, competency, and safety to the public.
- (2) Each applicant for a license as a pharmacist by endorsement under Section 58-1-302 shall:
- (a) submit a written application in the form prescribed by the division;
 - (b) pay the fee determined by the department under Section 63-38-3.2;
 - (c) be currently licensed in good standing as a pharmacist in another state, territory, or possession of the United States;
 - (d) produce satisfactory evidence of completing the professional education and internship required under Subsection (1);
 - (e) be of good moral character as required of applicants for licensure as pharmacists under Subsection (1)
 - (f) produce satisfactory evidence of having met the examination requirements which existed in this state at the time the applicant became licensed in the other state;
 - (g) pass the jurisprudence examination prescribed by division rule made in collaboration with the board;
 - (h) have lawfully practiced as a licensed pharmacist a minimum of 2,000 hours in the four years immediately preceding the date of application; and
 - (i) have no physical or mental condition of a nature which prevents the applicant from engaging in the practice of pharmacy with reasonable skill, competency, and safety to the public.
- (3) Each applicant for licensure as a pharmacist whose pharmacy education was completed at a foreign pharmacy school, shall, in addition to the requirements under Subsection (1), demonstrate educational equivalency of the foreign pharmacy school education with a domestically accredited school of pharmacy by obtaining certification of equivalency from the Foreign Pharmacy Graduate Examination Committee of the National Association of Boards of Pharmacy Foundation.
- (4) Each applicant for licensure as a pharmacy technician shall:
- (a) submit an application in a form prescribed by the division;
 - (b) pay a fee determined by the department under Section 63-38-3.2;
 - (c) be of good moral character;
 - (d) have no physical or mental condition of a nature which prevents the applicant from engaging in practice as a pharmacy technician with reasonable skill, competency, and safety to the public; and
 - (e)
 - (i) prior to July 1, 1998, have completed a program of education and training, meeting standards established by division rule made in collaboration with the board, in either a formal educational setting or on-the-job training in a licensed Utah pharmacy; or
 - (ii) after July 1, 1998:
 - (A) have completed a program of education and training, meeting standards established by division rule made in collaboration with the board, in either a formal educational setting or on-the-job training in a licensed Utah pharmacy; and
 - (B) successfully passed examinations required by division rule made in collaboration with the board.
- (5) Each applicant for a license to become a pharmacy intern shall:
- (a)
 - (i) be a current pharmacy student, or a resident or fellow in a program approved by the division in collaboration with the board;

- (ii) have graduated and received a professional entry degree from a school or college of pharmacy which is accredited by the American Council on Pharmaceutical Education; or
 - (iii) have graduated from a foreign pharmacy school and received a certificate of equivalency from the Foreign Pharmacy Graduate Examination Committee of the National Association of Boards of Pharmacy foundation;
- (b) meet the preliminary educational qualifications required by division rule made in collaboration with the board, which rules shall require not less than completion of preprofessional college training and the equivalent of 15 semester hours or more of training in professional pharmacy courses, or its equivalent, completed in a college or school of pharmacy recognized by the division in collaboration with the board;
- (c) submit an application in a form prescribed by the division; and
- (d) pay a fee determined by the department under Section 63-38-3.2.
- (6) (a) The duration of a pharmacy intern license may be no longer than:
 - (i) one year for a license issued under Subsection (5)(a)(ii) or (iii); and
 - (ii) four years for a license issued under Subsection (5)(a)(i).
- (b) A pharmacy intern license issued under this chapter may not be renewed, but may be extended by the division in collaboration with the board.

58-17a-303. License classifications of drug outlets and other facilities - Qualifications for licensure.

- (1) A license is required as a condition precedent to engaging in activities regulated under the license classifications set forth in Subsection (2) and (3), except as a person or activity is specifically exempted from licensure under Section 58-1-307.
- (2) The division shall issue to a person who qualifies under this chapter a license in the drug outlet classifications:
 - (a) retail pharmacy;
 - (b) hospital pharmacy;
 - (c) institutional pharmacy;
 - (d) nuclear pharmacy;
 - (e) out-of-state mail order pharmacy;
 - (f) veterinary pharmaceutical outlet;
 - (g) branch pharmacy;
 - (h) pharmaceutical manufacturer; or
 - (i) pharmaceutical wholesaler/distributor.
- (3) The division shall issue to a person who qualifies under this chapter a license in the classifications:
 - (a) pharmaceutical researcher;
 - (b) pharmaceutical teaching organization;
 - (c) pharmaceutical dog trainer;
 - (d) animal euthanasia agency;
 - (e) analytical laboratory;
 - (f) pharmaceutical administration facility; and
 - (g) lethal injection use.
- (4) Each applicant for licensure under this section shall:
 - (a) submit an application in a form prescribed by the division;
 - (b) pay a fee determined by the department under Section 63-38-3.2;
 - (c) satisfy the division that the applicant, and each owner, officer, or manager of the applicant has not engaged in any act, practice, or omission, which when considered with the duties and responsibilities of a licensee under this section indicates there is cause to believe that issuing a license to the applicant is inconsistent with the interests of

- the public's health, safety, or welfare;
 - (d) demonstrate the licensee's operations will be in accordance with all federal, state, and local laws relating to the type of activity engaged in by the licensee, including regulations of the Federal Drug Enforcement Administration and Food and Drug Administration, and operating standards established in this chapter and by division rule made in collaboration with the board; and
 - (e) acknowledge the division's authority to inspect the licensee's business premises pursuant to Section 58-17a-103.
- (5) Each license issued under this section:
- (a) shall be issued for a single, specific location; and
 - (b) is not transferable or assignable.

58-17a-304. Term of license - Expiration - Renewal.

- (1) Each license issued under this chapter shall be issued in accordance with a two-year renewal cycle established by rule. A renewal period may be extended or shortened by as much as one year to maintain established renewal cycles or to change an established renewal cycle.
- (2) Each license automatically expires on the expiration date shown on the license unless renewed by the licensee in accordance with Section 58-1-308.

58-17a-305. Exemptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307:

- (1) an individual who has completed all qualifications for licensure as a pharmacy technician, except an experience requirement which may be established by rule under Subsection 58-17a-302(4), may practice under the direct personal supervision of a pharmacist while completing that requirement for a period not to exceed six consecutive months without being licensed under this chapter; and
- (2) a person may sell contact lenses in accordance with Section 58-16a-801 without being licensed under this chapter.

Part 4 - License Denial and Discipline

58-17a-401. Grounds for denial of license - Disciplinary proceedings.

Grounds for the following action regarding a license issued under this chapter shall be in accordance with Section 58-1-401:

- (1) refusal to issue a license to an applicant;
- (2) refusal to renew the license of a licensee;
- (3) to revoke, suspend, restrict, or place on probation the license of a licensee;
- (4) to issue a public or private reprimand to a licensee; and
- (5) to issue cease and desist orders.

58-17a-402. Authority to fine drug outlets.

After a hearing conducted pursuant to Title 63, Chapter 46b, Administrative Procedures Act, the division may impose upon a drug outlet additional administrative penalties of up to \$2,000 for each day in which the violation occurred and may assess costs associated with the investigation, hearing, and all litigation required to finally resolve the finding if it is determined that a drug outlet:

- (1) engaged in the practice of pharmacy in this state without a license under this chapter;
- (2) permitted any person to engage in the practice of pharmacy in this state in

- violation of this chapter;
- (3) conducted any out-of-state mail service pharmacy without a license under this chapter by having:
 - (a) shipped, mailed, or delivered by any means a dispensed legend drug to a resident in Utah;
 - (b) providing information to a resident of this state on drugs or devices which may include advice relating to therapeutic values, potential hazards, and uses; or
 - (c) counseled pharmacy patients residing in this state concerning adverse and therapeutic effects of drugs;
 - (4) employed or used pharmacists, pharmacy interns, pharmacy technicians, or supportive personnel in violation of this chapter or division rules made in collaboration with the board; or
 - (5) failed to provide patient counseling as required under Section 58-17a-612.

Part 5 - Unlawful and Unprofessional Conduct

58-17a-501. Unlawful conduct.

"Unlawful conduct" includes:

- (1) knowingly preventing or refusing to permit any authorized agent of the division to conduct an inspection pursuant to Section 58-17a-103;
- (2) failing to deliver the license, permit, or certificate to the division upon demand, if it has been revoked, suspended, or refused;
- (3)
 - (a) using the title "pharmacist," "druggist," "pharmacy intern," "pharmacy technician," "apothecary," or any term having similar meaning, except by a person licensed as a pharmacist, pharmacy intern, or pharmacy technician; or
 - (b) conducting or transacting business under a name which contains, as part of that name, the words "drugstore," "pharmacy," "drugs," "medicine store," "medicines," "drug shop," "apothecary," "prescriptions," or any other term having a similar meaning, or in any manner advertising, otherwise describing, or referring to the place of the conducted business or profession, unless the place is a pharmacy issued a license by the division, except any establishment selling nonprescription drugs and supplies may display signs bearing the words "packaged drugs", "drug sundries", or "nonprescription drugs", and is not considered to be a pharmacy or drugstore by reason of the display;
- (4) buying, selling, or causing to be sold, or offering for sale, any drug or device which bears, or the package bears or originally did bear, the inscription "sample," "not for resale," "for investigational or experimental use only," or other similar words, except when a cost is incurred in the bona fide acquisition of an investigational or experimental drug;
- (5) using to his own advantages or revealing to anyone other than the division, board, and its authorized representatives, or to the courts, when relevant to any judicial or administrative proceeding under this chapter, any information acquired under authority of this chapter or concerning any method of process which is a trade secret;
- (6) procuring or attempting to procure any drug for himself or to have someone else procure or attempt to procure any drug:
 - (a) by fraud, deceit, misrepresentation, or subterfuge;
 - (b) by forgery or alteration of a prescription or any written order;
 - (c) by concealment of a material fact;
 - (d) by use of a false statement in any prescription, chart, order, or report; or
 - (e) by theft;
- (7) filling, refilling, or advertising the filling or refiling of prescriptions

- for any consumer or patient residing in this state if that person is not licensed under this chapter;
- (8) requiring any employed pharmacist, pharmacy intern, pharmacy technician, or authorized supportive personnel to engage in any conduct in violation of this chapter;
 - (9) being in possession of a prescription drug for any unlawful purpose;
 - (10) dispensing a prescription drug to any who does not have a prescription from a practitioner or to anyone who he knows or should know is attempting to obtain drugs by fraud or misrepresentation;
 - (11) selling, dispensing, or otherwise trafficking in prescription drugs when not licensed to do so or when not exempted from licensure; and
 - (12) engaging in the practice of pharmacy without a licensed pharmacist designated as the pharmacist-in-charge.

58-17a-502. Unprofessional conduct.

"Unprofessional conduct" includes:

- (1) willfully deceiving or attempting to deceive the division, the board, or their agents as to any relevant matter regarding compliance under this chapter;
- (2)
 - (a) paying rebates to practitioners or any other health care providers, or entering into any agreement with a medical practitioner or any other person for the payment or acceptance of compensation or its economic equivalent for recommending of the professional services of either party, except as allowed under Subsection (2)(b); and
 - (b) price discounts conditional upon volume purchases are not prohibited under Subsection (2)(a);
- (3) misbranding or adulteration of any drug or device or the sale, distribution, or dispensing of any misbranded or adulterated drug or device;
- (4) engaging in the sale or purchase of drugs or devices that are samples or packages bearing the inscription "sample" or "not for resale" or similar words or phrases;
- (5) accepting back and redistributing of any unused drug, or a part of it, after it has left the premises of any pharmacy, unless the drug is in the original sealed unit dose package or manufacturer's sealed container;
- (6) being employed as a pharmacist, pharmacy intern, or pharmacy technician, or sharing or receiving compensation in any form arising out of an act incidental to professional activities in the course of which any person requires him to engage in any aspects of the practice of pharmacy in violation of this chapter;
- (7) violation of Federal Title II, P.L. 91, Controlled Substances Act, or Title 58, Chapter 37, Utah Controlled Substances Act, or rules and regulations adopted under either of them; and
- (8) requiring or permitting pharmacy interns or technicians to engage in activities outside the scope of practice for their respective license classifications as defined in this chapter and division rules made in collaboration with the board, or beyond an individual's scope of training and ability; and
- (9) administering without:
 - (a) appropriate training as defined by rule;
 - (b) written guidelines or protocols of a practitioner or in conflict with such guidelines or protocols; or
 - (c) a lawful order, when one is required by law.

58-17a-503. Penalty for unlawful conduct.

Any person who violates the unlawful conduct provision defined in this chapter is guilty of a class A misdemeanor.

**Part 6 - Regulation of the Practice of Pharmacy
Operating Standards**

58-17a-601. General operating standards.

- (1) (a) The division shall make rules relating to the operations and conduct of facilities, individuals, and entities which are regulated under this chapter, to protect the public health, safety, and welfare.
- (b) The rules shall be consistent with the regulations of the federal Food and Drug Administration and Drug Enforcement Administration, this chapter, and all other laws relating to activities and persons regulated under this chapter.
- (2) (a) This chapter does not prevent, restrict, or in any other manner interfere with the sale of nonprescription drugs.
- (b) The division may not make any rules under this chapter that require nonprescription drugs to be sold by a licensed pharmacist or only in a drug outlet.
- (c) The sale or distribution of nonprescription drugs does not constitute the practice of pharmacy.

58-17a-602. Prescription orders - Information required - Alteration - Labels - Signatures.

- (1) The minimum information that shall be included in a prescription order is:
 - (a) the prescriber's name, address, and telephone number, and, if the order is for a controlled substance, the patient's age and the prescriber's DEA number;
 - (b) the patient's name and address or, in the case of an animal, name of the owner and species of the animal;
 - (c) the date of issuance;
 - (d) the name of the medication or device prescribed and dispensing instructions, if necessary;
 - (e) the directions for the use of the prescription, if appropriate, for the patient or animal;
 - (f) any refill, special labeling, and other instructions; and
 - (g) the prescriber's signature if the prescription order is written.
- (2) The requirement of Subsection (1)(a) does not apply to prescription orders dispensed for inpatients by hospital pharmacies if the prescriber is a current member of the hospital staff and the prescription order is on file in the patient's medical record.
- (3) The prescription order may be dispensed by pharmacists or pharmacy interns upon an oral prescription of a practitioner, if the oral prescription is promptly reduced to writing.
- (4) (a) A pharmacist or pharmacy intern may not dispense or compound any prescription of a practitioner if it shows evidence of alteration, erasure, or addition by any person other than the person writing the prescription, except under Subsection (b).
- (b) A pharmacist or pharmacy intern dispensing or compounding the prescription may alter or make additions after receiving permission of the prescriber, or may make entries or additions on the prescription required by law or necessitated in the compounding and dispensing procedures.
- (5) Each drug or device dispensed shall have a label securely affixed to the container indicating the following minimum information:
 - (a) the name, address, and telephone number of the pharmacy;
 - (b) the serial number of the prescription as assigned by the dispensing pharmacy;

- (c) the filling date of the prescription or its last dispensing date;
 - (d) the name of the patient, or in the case of an animal, name of the owner and species of the animal;
 - (e) the name of the prescriber;
 - (f) the directions for use and cautionary statements, if any, which are contained in the prescription order or are needed; and
 - (g) the trade, generic, or chemical name, amount dispensed and strength of dosage form, but if multiple ingredient products with established proprietary or nonproprietary names are prescribed, those products' names may be used.
- (6) If the prescriber specifically indicates the name of the prescription product should not appear on the label, then the trade, generic, or chemical name and strength of dosage form may not be included.

58-17a-603. Identification of drug outlet personnel.

All individuals employed in a drug outlet having any contact with the public or patients receiving services from that drug outlet shall wear on their person a clearly visible and readable identification showing the individual's name and position.

58-17a-604. Medication profiles.

- (1)
 - (a) Each pharmacy shall establish a medication profile system for pharmacy patients according to standards established by division rules made in collaboration with the board.
 - (b) The rules shall indicate the method for recording all prescription information.
- (2) The pharmacy shall maintain the medication profile for any pharmacy patient who expresses a desire for that professional service.
- (3) The pharmacy may charge an appropriate professional fee for this service and for copying or providing information in the medication profile to another authorized person.
- (4) A pharmacist, pharmacy intern, or pharmacy technician may not release or discuss the information contained in a prescription or patient's medication profile to anyone except:
 - (a) the pharmacy patient in person or the pharmacy patient's legal guardian or designee;
 - (b) a lawfully authorized federal, state, or local drug enforcement officer;
 - (c) a third party payment program administered under terms authorized by the pharmacy patient;
 - (d) a pharmacist, pharmacy intern, or pharmacy technician providing pharmacy services to the patient or a prescribing practitioner providing professional services to the patient;
 - (e) another pharmacist, pharmacy intern, pharmacy technician, or prescribing practitioner to whom the patient has requested a prescription transfer; or
 - (f) the pharmacy patient's attorney, after the presentation of a written authorization signed by the:
 - (i) patient, before a notary public;
 - (ii) parent or lawful guardian, if the patient is a minor;
 - (iii) lawful guardian, if the patient is incompetent; or
 - (iv) personal representative, if the patient is deceased.

58-17a-605. Drug product equivalents.

- (1) A pharmacist or pharmacy intern dispensing a prescription order for a specific

drug by brand or proprietary name may substitute another drug product equivalent if:

- (a) the purchaser specifically requests or consents to the substitution of a drug product equivalent;
 - (b) the substituted drug product equivalent is of the same generic type and is designated the therapeutic equivalent in the Approved Drug Products with Therapeutic Equivalence Evaluations prepared by the Center for Drug Evaluation and Research of the federal Food and Drug Administration;
 - (c) the substituted drug product is permitted to move in interstate commerce;
 - (d) the pharmacist or pharmacy intern counsels the patient on the use and the expected response to the prescribed drug, whether a substitute or not, and the substitution is not otherwise prohibited by this chapter;
 - (e) the prescribing practitioner has not indicated that an equivalent drug product is not to be substituted as set forth in Subsection 58-17a-605(5); and
 - (f) the substitution is not otherwise prohibited by law.
- (2) (a) Each out-of-state mail service pharmacy dispensing a substituted drug product into this state shall notify the patient of substitution either by telephone or in writing.
 - (b) Each out-of-state mail service pharmacy shall comply with the requirements of this chapter with respect to drugs which may be substituted, including labeling and record keeping, when dispensing substituted drug products.
- (3) Pharmacists or pharmacy interns may not substitute without the prescriber's authorization on trade name drug product prescriptions unless the product is currently categorized in the Approved Drug Products with Therapeutic Equivalence Evaluations prepared by the Center for Drug Evaluation and Research of the federal Food and Drug Administration as a drug product considered to be therapeutically equivalent to another drug product.
- (4) A pharmacist or pharmacy intern who dispenses a prescription with a drug product equivalent under this section assumes no greater liability than would be incurred had the pharmacist or pharmacy intern dispensed the prescription with the drug product prescribed.
- (5) (a) If, in the opinion of the practitioner, it is in the best interest of the patient that an equivalent drug product not be substituted, the practitioner may indicate a prohibition on substitution either by writing "dispense as written" or may sign in the appropriate space where two lines have been preprinted on a prescription order and captioned "dispense as written" or "substitution permitted."
 - (b) If the prescription is communicated orally by the practitioner to the pharmacist or pharmacy intern, the practitioner shall indicate the prohibition on substitution and that indication shall be noted in writing by the pharmacist or pharmacy intern with the name of the practitioner and the words "orally by" and the initials of the pharmacy practitioner written after it.
- (6) The substitution, if any, shall be communicated to the purchaser. The container shall be labeled with the name of the drug dispensed and the pharmacist, pharmacy intern, or pharmacy technician shall indicate on the file copy of the prescription both the name of the prescribed drug and the name of the drug dispensed in its place.
- (7) Failure of a licensed medical practitioner to specify that no substitution is authorized does not constitute evidence of negligence.

58-17a-605.1 Restrictive drug formulary prohibited.

- (1) As used in this section, "restrictive drug formulary" means a list of legend

drugs, other than drugs for cosmetic purposes, that are prohibited by the Utah Department of Health from dispensation, but are approved by the federal Food and Drug Administration.

- (2) A practitioner may prescribe legend drugs in accordance with this chapter that, in his professional judgment and within the lawful scope of his practice, he considers appropriate for the diagnosis and treatment of his patient.
- (3) The Utah Department of Health may not maintain a restrictive drug formulary that restricts a physician's ability to treat a patient with a drug that has been approved and designated as safe and effective by the federal Food and Drug Administration, except for drugs for cosmetic purposes.
- (4) The Utah Department of Health may reimburse for multisource prescription drugs in the generic form, in accordance with state and federal law, unless an exception has been made by the prescribing practitioner.
- (5) This section does not affect the state's ability to exercise the exclusion options available under the federal Omnibus Budget Reconciliation Act of 1990.

58-17a-606. Drug substitution is not the practice of medicine - Other causes of action not denied.

- (1) The substitution of any drug by a licensed pharmacist or pharmacy intern under this chapter does not constitute the practice of medicine.
- (2) This chapter may not be construed to deny any individual a cause of action against a pharmacist, pharmacy intern, or his employer for violations of this chapter, including failure to observe accepted standards of care of the pharmaceutical profession.

58-17a-607. Emergency refills.

- (1) In the interest of the patient's health, a pharmacist or pharmacy intern may, in an emergency, refill a prescription for a patient, but only if the prescribing practitioner is not available promptly to authorize the refill and only if in the professional judgment of the pharmacist or pharmacy intern the prescription should be refilled.
- (2) Only sufficient medication as necessary in the emergency may be furnished by the pharmacist or pharmacy intern, not to exceed a three-day supply.
- (3) The practitioner shall be contacted as soon as possible for further instructions concerning the emergency.

58-17a-608. Limitation on prescriptions and refills - Controlled Substances Act not affected - Legend drugs.

- (1) A prescription for any prescription drug may not be dispensed after one year from the date it was initiated except as otherwise provided in Title 58, Chapter 37, Utah Controlled Substances Act.
- (2) A prescription authorized to be refilled may not be refilled after one year from the original issue date.
- (3) A practitioner may not be prohibited from issuing a new prescription for the same drug either orally or in writing.
- (4) Nothing in this chapter affects Title 58, Chapter 37, Utah Controlled Substances Act.
- (5) Prescriptions for a legend drug written by a licensed prescribing practitioner in another state may be filled or refilled by a pharmacist or pharmacy intern in this state, if requirements in the other state for licensure of the prescribing practitioner are similar to requirements in this state, and the pharmacist or pharmacy intern knows the prescribing practitioner holds a current license.

58-17a-609. Patients' immediate needs.

This chapter may not be construed to prevent the personal administration of drugs or medicines by practitioners licensed to prescribe in order to supply the immediate needs of their patients.

58-17a-610. Drug outlet records.

- (1) Each drug outlet shall maintain its prescription files and other records in accordance with this chapter, division rules made in collaboration with the board, and federal regulations.
- (2) Each out-of-state mail service pharmacy shall maintain its prescription files in accordance with applicable rules or regulations of the state in which its facilities are located, and federal regulations.

58-17a-611. Supervision - Pharmacist-in-charge.

- (1)
 - (a) A drug outlet, except a wholesaler, distributor, or out-of-state mail service pharmacy, shall be under the general supervision of at least one pharmacist licensed to practice in Utah. One pharmacist licensed in Utah shall be designated as the pharmacist-in-charge.
 - (b) Notwithstanding the provisions of Subsection 58-17a-102(17), a supervising pharmacist does not have to be in the pharmacy or facility in which the drug outlet is located but shall be available via a telepharmacy system for immediate contact with the supervised pharmacy technician or pharmacy intern if:
 - (i) the drug outlet is located in:
 - (A) a remote rural hospital as defined in Section 26-21-13.6; or
 - (B) a clinic located in a remote rural county with less than 20 people per square mile; and
 - (ii) the supervising pharmacist described in Subsection (1)(a), is not available; and
 - (iii) the telepharmacy system maintains records and files quarterly reports as required by division rule adopted in consultation with the Pharmacy Board to assure that patient safety is not compromised.
- (2) Each out-of-state mail service pharmacy shall designate and identify to the board a pharmacist holding a current license issued by the state in which the pharmacy is located, who serves as the pharmacist-in-charge for all purposes under this chapter.

58-17a-612. Patient counseling.

- (1) A pharmacist or pharmacy intern in a retail pharmacy, out-of-state mail service pharmacy, or institutional pharmacy shall orally offer to counsel a patient or a patient's agent in a personal face to face discussion with respect to each prescription drug dispensed, if the patient or patient's agent:
 - (a) delivers the prescription in person to the pharmacist, pharmacy intern, or pharmacy technician with instructions that the dispensed prescription drug be mailed or otherwise delivered to the patient outside of the drug outlet; or
 - (b) receives the drug in person at the time it is dispensed at the drug outlet.
- (2) A pharmacist or pharmacy intern in a retail pharmacy, out-of-state mail service pharmacy, or institutional pharmacy shall provide each patient, in writing, competent counseling, and shall provide the patient with a toll-free

telephone number by which the patient may contact a competent pharmacist at the dispensing pharmacy during normal business hours and receive oral counseling, with respect to each prescription drug dispensed if the patient provides or the prescription is otherwise provided to the drug outlet by a means other than personal delivery, and the dispensed prescription drug is mailed or otherwise delivered to the patient outside of the drug outlet.

58-17a-613. Change of ownership or location.

- (1) If a licensed drug outlet or other facility proposes to change its name, location, or ownership, except for changes in ownership caused by a change in the stockholders in corporations which are publicly listed and their stock is publicly traded, the licensee shall make application for a new license and receive approval from the division prior to the proposed change. The application shall be on application forms provided by the division and shall include:
 - (a) the name and current address of the licensee;
 - (b) the pharmacy license number and the controlled substance license number of the facility;
 - (c) the DEA registration number of the facility; and
 - (d) other information required by the division in collaboration with the board.
- (2) A new license shall be issued upon a change of ownership, name, or a change in location only after an application for change has been submitted and approved.
- (3) Upon completion of the change in ownership, name, or location, the original licenses replaced as required by this section shall be surrendered to the division.

58-17a-614. Branch pharmacies.

The division, in collaboration with the board, shall regulate the distribution of prescription drugs and devices in branch pharmacies where a licensed pharmacist is not required for the protection of the public health, safety, and welfare, and shall make rules, in consultation with the board, regulating the licensing and operation of the drug outlets.

58-17a-615. Sale of prescription drugs not in normal course of business.

- (1) As used in this section, "seller" means a person selling prescription drugs or devices owned or lawfully controlled by him, or a party arranging for the sale of prescription drugs or devices owned by or lawfully controlled by another person, including salvage companies that acquire prescription drugs and devices from, or act as an agent or representative for freight haulers and forwarders.
- (2) Any sale of prescription drugs in bankruptcy, at public auction, at freight liquidation sales, or any other sale of prescription drugs other than in the normal course of business or practice shall comply with the following:
 - (a) a seller of prescription drugs shall be licensed by the division as a prescription drug distributor or wholesaler with a regular license, or a temporary license for that sale only, before engaging in the sale of any prescription drugs;
 - (b) a person licensed as a drug outlet under this chapter may not acquire by purchase or other means prescription drugs or devices outside the normal course of business within the meaning of this section unless:
 - (i) the prescription drugs or devices are accompanied by a certificate signed by a licensed pharmacist employed or retained by the seller, as required in Subsection (3), attesting that the

- prescription drugs or devices have not been adversely affected by circumstances relating to their transportation, storage, or distribution; and
- (ii) the licensee acquiring the prescription drugs or devices employs a qualified pharmacist who is responsible for determining that all prescription drugs being acquired do not pose any threat to the public welfare if introduced into commerce than would be presented by the acquisition of those prescription drugs and devices in the normal course of business through established channels of prescription drug distribution.
- (3) A seller of prescription drugs outside the normal course of business shall retain the services of a qualified pharmacist licensed to practice in the state to serve as either an employee or independent consultant to determine if the:
 - (a) prescription drugs and devices to be offered for sale have been transported, stored, and distributed in accordance with applicable federal, state, and local laws; and
 - (b) condition of the prescription drugs and devices to be offered for sale has been adversely affected by the circumstances of transportation, storage, or distribution.
 - (4) The written notice provided to the division prior to the sale of any prescription drugs or devices under this section shall contain written verification of the pharmacist retained by the seller, stating the drugs or devices offered for sale have not been adversely affected by the circumstances of transportation, storage, or distribution.
 - (5) A pharmacist employed by a seller under Subsection (3) or a pharmacy, distributor, or wholesaler for whom that pharmacist may be employed or in which he may have an interest, may not purchase any prescription drugs or devices from the seller for which that pharmacist has provided verification regarding the drugs or devices.

58-17a-616. Drug stock sales - Labeling.

- (1) A manufacturer, wholesaler, or distributor of prescription drugs may not sell or give any prescription drug to any person unless the prescription drug stock container bears a label containing the name and place of business of the manufacturer of the finished dosage form of the drug, and if different from the manufacturer, the name and place of business of the packer or distributor.
- (2) Each tablet or capsule shall be marked with an identification code or monogram, unless waived by the division.
- (3) Each stock package shall bear an expiration date.

58-17a-617. Limitations on distribution of prescription drugs by pharmaceutical manufacturers or wholesalers.

- (1) A pharmaceutical manufacturer or pharmaceutical wholesaler may not provide a prescription drug to any person, except:
 - (a) prescription drugs that are not controlled substances may be distributed or provided as drug samples to a person licensed within the state to sell, prescribe, administer, dispense, or conduct research with legend drugs; and
 - (b) controlled substance prescription drugs may be sold or provided only:
 - (i) upon the issuance of an order or request by a person appropriately licensed under state and federal law to sell, prescribe, administer, dispense, or conduct research with prescription drugs; and
 - (ii) upon the establishment of documents in the possession of the manufacturer or distributor recording the purchaser, type of drug,

- quantity of drug, date of shipment, and date of delivery.
- (2) Purchasers or those in receipt of drugs under this section shall maintain records in accordance with federal and state laws regarding controlled substances.

58-17a-618. Compliance with federal laws.

The pharmacist, pharmacy intern, and pharmacy technician shall comply with the laws and regulations relating to the federal Consumer Product Safety Commission, the federal Hazardous Substances Act, and the federal Food and Drug Cosmetic Act.

58-17a-619. Third party payors - Health maintenance organizations - Criminal penalty.

- (1) Any third party payor for pharmaceutical services within the state may not require any pharmacy patient to obtain prescription drugs from an out-of-state pharmacy as a condition of obtaining third party payment for the prescription drugs.
- (2) This section does not prohibit any third party payor of pharmaceutical services, who provides for reimbursement to the pharmacy patient or payment on his behalf, from exercising the right to limit the amount reimbursed for the cost of prescription drugs based upon the cost of identical prescription drugs available through a designated out-of-state pharmacy.
- (3) Each third party payor of pharmaceutical services shall identify as a part of the third party agreement or contract the designated out-of-state pharmacy which shall be used as the base line comparison.
- (4) Violation of this section is a class A misdemeanor. Each violation is a separate offense.

58-17a-620. Prescriptions issued within the public health system.

- (1) As used in this section:
- (a) "Department of Health" means the state Department of Health created in Section 26-1-4.
- (b) "Health department" means either the Department of Health or a local health department.
- (c) "Local health departments" means the local health departments created in Title 26A, Chapter 1, Local Health Departments.
- (2) A health department may implement the prescription procedure under Subsection (3) for prescription drugs, other than controlled substances, for use in clinics providing:
- (a) sexually transmitted disease treatment;
- (b) fluoride treatment; or
- (c) travel immunization.
- (3) The following prescription procedure shall be carried out in accordance with the requirements of Subsection (4) and may be used only in the clinics listed under Subsection (2):
- (a) a physician writes and signs a prescription for prescription drugs, other than controlled substances, without the name and address of the patient and without the date the prescription is provided to the patient; and
- (b) the physician authorizes a registered nurse employed by the health department to complete the prescription written under Subsection (a) by inserting the patient's name and address, and the date the prescription is provided to the patient, in accordance with the physician's standing written orders and a written health department protocol approved by the physician and the medical director of the state Department of Health.
- (4) When allowing prescriptions to be written under Subsection (3), the health

department shall employ a physician who:

- (a) assumes specific responsibility for all prescriptions issued in his name under the procedure in Subsection (3) by the health department; and
- (b) enters into a written signed agreement with the health department, which agreement is approved by the division and states:
 - (i) the terms and conditions under which the physician will prepare and sign prescriptions that do not include the name and address of the patient and the date the prescription is provided to the patient;
 - (ii) the methods which will be used to ensure the signed prescriptions are secure and not available for unauthorized use;
 - (iii) the minimum qualifications and training of a registered nurse authorized by the physician and department to complete and provide prescriptions to a patient;
 - (iv) under what conditions prescriptions completed by an authorized registered nurse will be provided to a patient in accordance with standing orders and written protocols, and the specific prescription drugs for which prescriptions may be written;
 - (v) the manner in which the physician will audit and review the records of patients receiving prescriptions; and
 - (vi) the manner in which records of prescriptions issued will be maintained for audit by the physician and division.
- (5) The health department shall file and maintain with the division a current copy of all agreements signed by physicians under Subsection (4).
- (6) (a) All prescription forms to be used by a physician and health department in accordance with this section shall be serially numbered according to a numbering system assigned to that health department by the division.
(b) All prescriptions issued shall contain all information required under this chapter and rules adopted under this chapter.

Part 7 - Penalties

58-17a-701. Penalties.

A violation of any provision of this chapter is a class B misdemeanor, unless otherwise specifically provided within this chapter.

Part 8 - Incapacity

58-17a-801. Mentally incompetent or incapacitated pharmacist - Division action and procedures.

- (1) As used in this section:
 - (a) "incapacitated person" has the same definition as in Section 75-1-201; and
 - (b) "mentally ill" has the same definition as in Section 62A-12-202.
- (2) If a court of competent jurisdiction determines a pharmacist is an incapacitated person, or that he is mentally ill and unable to safely engage in the practice of pharmacy, the director shall immediately suspend the license of the pharmacist upon the entry of the judgment of the court, without further proceedings under Title 63, Chapter 46b, Administrative Procedures Act, regardless of whether an appeal from the court's ruling is pending. The director shall promptly notify the pharmacist, in writing, of the suspension.
- (3) (a) If the division and a majority of the board find reasonable cause to believe a pharmacist, who is not determined judicially to be an incapacitated person or to be mentally ill, is incapable of practicing pharmacy with reasonable skill regarding the safety of patients, because of illness, excessive use of drugs or alcohol, or as a result of any

- mental or physical condition, the board shall recommend that the director file a petition with the division, and cause the petition to be served upon the pharmacist with a notice of hearing on the sole issue of the capacity of the pharmacist to competently and safely engage in the practice of pharmacy.
- (b) The hearing shall be conducted under Section 58-1-109, and Title 63, Chapter 46b, Administrative Procedures Act, except as provided in Subsection (3) of this section.
- (4) (a) Every pharmacist who accepts the privilege of being licensed under this chapter gives consent to:
 - (i) submitting at his own expense to an immediate mental or physical examination when directed in writing by the division, with the consent of a majority of the board, to do so; and
 - (ii) the admissibility of the reports of the examining practitioner's testimony or examination in any proceeding regarding the license of the pharmacist, and waives all objections on the ground the reports constitute a privileged communication.
 - (b) The examination may be ordered by the division, with the consent of a majority of the board, only upon a finding of reasonable cause to believe:
 - (i) the pharmacist is mentally ill or incapacitated or otherwise unable to practice pharmacy with reasonable skill and safety; and
 - (ii) immediate action by the division and the board is necessary to prevent harm to the pharmacist's patients or the general public.
 - (c) (i) Failure of a pharmacist to submit to the examination ordered under this section is a ground for the division's immediate suspension of the pharmacist's license by written order of the director.
 - (ii) The division may enter the order of suspension without further compliance with Title 63, Chapter 46b, Administrative Procedures Act, unless the division finds the failure to submit to the examination ordered under this section was due to circumstances beyond the control of the pharmacist and was not related directly to the illness or incapacity of the pharmacist.
- (5) (a) A pharmacist whose license is suspended under Subsection (2) or (4) has the right to a hearing to appeal the suspension within ten days after the license is suspended.
 - (b) The hearing held under this subsection shall be conducted in accordance with Sections 58-1-108 and 58-1-109 for the sole purpose of determining if sufficient basis exists for the continuance of the order of suspension in order to prevent harm to the pharmacist's patients or the general public.
- (6) A pharmacist whose license is revoked, suspended, or in any way restricted under this section may request the division and the board to consider, at reasonable intervals, evidence presented by the pharmacist, under procedures established by division rule, regarding any change in the pharmacist's condition, to determine whether:
 - (a) he is or is not able to safely and competently engage in the practice of pharmacy; and
 - (b) he is qualified to have his licensure to practice under this chapter restored completely or in part.

PHARMACY PRACTICE ACT

**Title 58, Chapter 17a
Utah Code Annotated 1953
As Amended by
Session Laws of Utah 2001
Issued April 30, 2001**